

**FINAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
REGARDING THE CALIFORNIA BUILDING CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2
(HCD 02/07)**

The Administrative Procedure Act requires that every agency shall maintain a file of each rulemaking that shall be deemed to be the record for that rulemaking proceeding. The rulemaking file shall include a final statement of reasons. The Final Statement of Reasons shall be available to the public upon request when rulemaking action is being undertaken. The following are the reasons for proposing this particular rulemaking action:

UPDATES TO THE INITIAL STATEMENT OF REASONS

(Government Code Section 11346.9(a) (1) requires an update of the information contained in the Initial Statement of Reasons. If the update identifies any data or any technical, theoretical or empirical study, report, or similar document on which the state agency is relying that was not identified in the Initial Statement of Reasons, the state agency shall comply with Government Code Section 11347.1)

No data or any technical, theoretical or empirical study, report, or similar document on which the state agency is relying has been added to the rulemaking file that was not identified in the Initial Statement of Reasons.

The Department of Housing and Community Development (HCD) has made non-substantive, grammatical, or editorial language revisions to the following sections listed below.

Sections: 1101A.1, *1115A.5, *1123A.5, 1124A.3.3.2 and 1134A Option 2, Item 6.

The asterisk (*) preceding the two code sections listed above indicates that HCD has removed some proposed language from our Express Terms for further study.

Based upon information brought to HCD's attention, an internal review was conducted during the 15-day comment period. This review uncovered incorrect references in Sections 1107A.16-P, 1107A.19-S and 1107A.23-W. The references to internal cites directed the code user to sections in Chapter 2 that no longer exist. As reflected in the Final Express Terms, HCD has modified the incorrect cites in Chapter 11A by removing references to Sections 217 and 220. Currently, all definitions in Chapter 2 are located within Section 202. These editorial corrections have no change in regulatory effect.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

(Pursuant to Government Code Section 11346.9(a)(2), if the determination as to whether the proposed action would impose a mandate, the agency shall state whether the mandate is reimbursable pursuant to Part 7 of Division 4. If the agency finds that the mandate is not reimbursable, it shall state the reasons for the finding(s))

The Department of Housing and Community Development has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

OBJECTIONS OR RECOMMENDATIONS MADE REGARDING THE PROPOSED REGULATION(S)

(Government Code Section 11346.9(a)(3))

The following is HCD's summary of and response to comments specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the actions or reasons for making no change:

COMMENTS 1 THROUGH 4 WERE RECEIVED DURING THE 45-DAY COMMENT PERIOD. COMMENTS 5 THROUGH 8 WERE RECEIVED DURING THE SUBSEQUENT 15-DAY POST-HEARING MODIFICATIONS COMMENT PERIOD.

(The text with proposed changes clearly indicated was made available to the public from March 28, 2008 until May 12, 2008, and from July 21, 2008 until August 7, 2008, for the post-hearing modifications.)

45-DAY COMMENT PERIOD

1. **COMMENTER:** Eugene Lozano, Jr.
California Council of the Blind
4537 Sycamore Ave.
Sacramento CA 95841

- a) **COMMENTS: EM-1, EM-2, *EM-3*, EM-4, EM-5, *EM-6*, EM-7, EM-10, EM-11, EM-12, EM-13, EM-14, and EM-15. Sections 1115A.1, 1115A.4, 1115A.5, 1115A.6, 1123A.2, 1123A.5, 1123A.6.1, 1124A.4, 1127A.7.2, 1127A.7.2.1, 1127A.7.2.2, 1127A.7.2.3, and 1115A.2:** The commenter offered his approval and support for the above listed proposed agency actions.

The 13 complete individual 1-page comments made by Mr. Lozano during the 45-day comment period are available at the following internet address:

http://www.bsc.ca.gov/prpsd_chngs/pc_07_comment.htm

RESPONSE: HCD acknowledges the positive affirmations expressed by the commenter and appreciates his effort to assist keeping HCD informed.

***Note:** Although the commenter offered his support for Sections 1115A.5 and 1123A.5, HCD removed some of the proposed language for further study. Please review comments EM-A and EM-B, and HCD's response, under the 15-day comments and responses below.

- b) **COMMENT: EM-8, Section 1123A.6.2.3 Exception:** The commenter opposes this section as proposed. The commenter requests to "Approve as Amended." The commenter has suggested a revision to the text, proposing deletion of the exception added by HCD. The commenter wishes HCD to require handrail extensions at all stair locations, including those within individual covered dwelling units.

The complete 1-page comment made by Mr. Lozano during the 45-day comment period is available at the following internet address:

http://www.bsc.ca.gov/prpsd_chngs/pc_07_comment.htm

RESPONSE: HCD appreciates and acknowledges the comment received pertaining to handrail extensions within a covered dwelling unit. This exception was added as a result of comments made during an HCD Focus Group meeting to clarify that handrail extensions are not required within a covered dwelling unit. Insertion of this exception has no change in regulatory effect and remains consistent with Chapter 10 egress requirements. The

suggested revision to the proposed Express Terms would represent a substantive change in regulatory effect not being considered by HCD at this time. At the Accessibility Code Advisory Committee (CAC) meetings, HCD addressed this proposal and declined to move forward with the suggestion. This proposal achieved no consensus at previous HCD Focus Group meetings. HCD will consider this suggestion in the development of future rulemaking packages. No new code change has been proposed as a result of this comment.

c) COMMENT: EM-9, Section 1124A.3.3.2: The commenter opposes this section as proposed. The commenter requests to “Approve as Amended.” The commenter requests HCD harmonize this section with language found in Chapter 11B, Section 1116B.1.9.

The complete 1-page comment made by Mr. Lozano during the 45-day comment period is available at the following internet address:

http://www.bsc.ca.gov/prpsd_chngs/pc_07_comment.htm

RESPONSE: HCD appreciates and acknowledges the comment received pertaining to car control buttons. HCD made the change requested by the commenter immediately after the January 2008 Accessibility CAC meetings. Miscommunication may have occurred in the interim, as the requested revision was included in Section 1124A.3.3.3 as part of the original Express Terms submitted to the California Building Standards Commission prior to the 45-day public comment period. No new code change has been proposed as a result of this comment.

- 2. COMMENTER:** Ric Guenther
The Hanover Group
5847 San Felipe, Suite 3600
Houston, TX 77057

COMMENT: Section 1134A.2, Option 2: The commenter provided oral testimony to the Building Standards Commission at the public hearing held on May 6, 2008. The commenter opposed the section as proposed stating that the language is “unclear with regard to the shower issue.” The commenter further suggested that the language as proposed is “conflicting and that more development is required.”

The testimony provided by Mr. Guenther was recorded at the hearing and may be available through the California Building Standards Commission.

RESPONSE: HCD appreciates and acknowledges the comment received. Although no supporting documentation or revision language was offered to clarify the commenter’s testimony, HCD developed non-substantive revisions to this section to improve the clarity and understanding of the proposed regulation. The revision has no change in regulatory effect.

- 3. COMMENTER:** David Miles
City of Santa Barbara
630 Garden St.
Santa Barbara, CA 93102

COMMENT: EM-16, Section 1102A.3.2: The commenter opposes this section as proposed. The commenter requests to “Approve as Amended.” The commenter proposes the addition of an exception below items 1 and 2, in the “hopes to clarify the intent of adaptable and accessible features required by Section 1102A.3.2.”

The complete 1-page comment made by Mr. Miles during the 45-day comment period is available at the following internet address:

http://www.documents.dgs.ca.gov/bsc/prpsd_chngs/documents/2007/public_comment_1_hcd_02_07_miles.pdf

RESPONSE: HCD appreciates and acknowledges the comment received pertaining to covered multistory dwelling units in buildings with elevators. HCD's current proposals seek to repeal all reference to townhouses in Chapter 11A. See our Initial Statement of Reasons (ISOR). The exception as submitted by the commenter would re-introduce "townhouse" in Chapter 11A which HCD intends to remove. In addition to the added exception, the commenter further desires to define private elevator use within a covered dwelling unit. Currently, a private elevator serving only one dwelling unit is exempt under the Section 1124A.1 exception. HCD will consider this suggestion during the development of future rulemaking packages. No new code change has been proposed as a result of this comment.

4. COMMENTER: Terelle Terry
Californians for Disability Rights

COMMENT: The commenter provided testimony to the Building Standards Commission at the public hearing held on May 6, 2008. The commenter stated that she has worked with access issues since the early 1970's. The commenter expressed her thankfulness for being able to work with HCD on access-related standards. The commenter was pleased with the regulations as proposed, thus far, excluding any new changes being made. The commenter expressed her wish to make our society more accessible including increasing visitability and promoting greater access so persons can remain in their own homes.

The testimony provided by Ms. Terry was recorded at the hearing and may be available through the Building Standards Commission.

RESPONSE: HCD appreciates and acknowledges the positive affirmations offered by the commenter and appreciates her effort to assist keeping HCD informed.

15-DAY COMMENT PERIOD

5. COMMENTER Eugene Lozano, Jr.
California Council of the Blind
4537 Sycamore Ave.
Sacramento, CA 95841

COMMENTS: EM-A, EM-B, Sections 1115A.5 and 1123A.5: The commenter opposes Sections 1115A.5 and 1123A.5 of HCD's revised Express Terms regarding Striping for the visually impaired. The commenter recommends disapproval unless HCD retains the language "...shall extend the full width of the step or upper tread..." which was removed by HCD after the 45-day comment period.

The written comments are available by request to HCD.

RESPONSE: Based upon Mr. Lozano's testimony and suggestions at the Accessibility Code Advisory Committee (CAC) meetings, HCD modified the regulatory language originally proposed for Sections 1115A.5 and 1123A.5 "Striping for the visually impaired." The requirements initially submitted by HCD for review at the CAC meeting proposed that stair striping terminate within three (3) inches of each side of a tread or landing. No prescribed

minimum or maximum length for stair striping had previously existed. Our concurrence with Mr. Lozano at the CAC meeting to modify Sections 1115A.5 and 1123A.5 would have established a more restrictive requirement than initially proposed or intended without any evaluation of the potential consequences.

Subsequent review suggests that further evaluation is necessary to ensure unworkable construction conditions do not exist prior to implementing this more restrictive requirement. In addition to evaluating the different materials, methods and types of construction, including manufacturing and installation techniques, HCD must also consider our concurrent Express Terms proposal to expand stair striping requirements to apply at all stairways on a covered site. A complete review and analysis is required to ensure compliance with Sub-sections 3, 4, and 5 of Health and Safety Code Section 18930, the Building Standards Law nine-point criteria.

HCD appreciates and acknowledges the commenter's views concerning striping for the visually impaired. HCD will add the commenter's suggestion to our access focus group "parking lot" list. This list was established to identify accessibility concerns and contains the ideas and suggestions of various stakeholders for HCD consideration in the development of regulations for disabled access during upcoming rulemaking cycles. HCD has considered the comments and suggestions but no change proposal was initiated as result of this comment.

COMMENT: EM-C, Section 1124A.3.3.2: The commenter offered his approval and support for the proposed agency actions.

The written comments are available by request to HCD.

RESPONSE: HCD appreciates and acknowledges the positive affirmation expressed by the commenter and appreciates his effort to assist keeping HCD informed.

6. COMMENTER Sharon Toji
2386 East Artesia Blvd
Long Beach, CA 90805

COMMENTS: EM-G, Sections 1115A.5 and 1123A.5: The commenter opposes Sections 1115A.5 and 1123A.5 of HCD's revised Express Terms regarding striping for the visually impaired. Additionally, she echoes support for Mr. Lozano's recommendation to retain the language "...shall extend the full width of the step or upper tread...." which was removed by HCD after the 45-day comment period.

The written comments are available by request to HCD.

RESPONSE: HCD appreciates and acknowledges the commenter's views concerning striping for the visually impaired. HCD has included this comment although it was submitted after the 15-day comment period deadline. Please refer to HCD's response to Item 5, Eugene Lozano, Jr, comments EM-A and EM-B, Sections 1115A.5 and 1123A.5 above.

7. COMMENTER: Donna Pomerantz
Citizens with Low Vision International
1115 Cordova St., #402
Pasadena, CA 91106

COMMENTS: EM-D, EM-E, Sections 1115A.5 and 1123A.5: The commenter opposes Sections 1115A.5 and 1123A.5 of HCD's revised Express Terms regarding striping for the

visually impaired. The commenter supports the same recommendation proposed by Mr. Lozano. Additionally, Mrs. Pomerantz has forwarded a resolution on behalf of the Council of Citizens with Low Vision International recommending that HCD retain the language "...shall extend the full width of the step or upper tread...." which was removed by HCD after the 45-day comment period.

The written comments are available by request to HCD.

RESPONSE: HCD appreciates and acknowledges the commenter's views concerning striping for the visually impaired. Please refer to HCD's response to Item 5, Eugene Lozano, Jr, comments EM-A and EM-B, Sections 1115A.5 and 1123A.5 above.

8. COMMENTER: Ric Guenther
The Hanover Group
5847 San Felipe, Suite 3600
Houston, TX 77057

COMMENTS: EM-F, Section 1134A.2 Option 2: The commenter begins his correspondence by summarizing what he believes to be the changes in our revised Express Terms and offering three scenarios, as points of clarification. Further, the commenter points out: "In looking at the definition of "subsequent", it may present some confusion since the primary definition deals with timing, or the order of things." The commenter suggests that there are more appropriate word choices to convey our intent. Additional suggestions were provided, but they did not address the proposed changes made by HCD to the revised Express Terms in this comment period. The subsequent suggestions offered by the commenter fell outside the scope of this rulemaking.

The written comments are available by request to HCD.

RESPONSE: HCD appreciates and acknowledges the commenter's views concerning our revised Express Terms for Item 6 of Option 2 in Section 1134A.2. HCD has considered the comments and suggestions. No changes were made as a result of this comment.

DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS
(Government Code Section 11346.9(a) (4))

The Department of Housing and Community Development has determined that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the adopted regulation

REJECTED PROPOSED ALTERNATIVE THAT WOULD LESSEN THE ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

(Government Code Section 11346.9(a)(5))

No proposed alternatives were received by the Department of Housing and Community Development that would lessen the adverse economic impact on small businesses.